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February 3, 2023

Via ECF and Email

The Honorable Richard M. Berman  
U.S. District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10001

Re: *United States v. Robert Hadden*, No. 20-cr-468 (RMB)

Dear Judge Berman,

The defense respectfully asks the Court to immediately issue an order providing the reasons for its decision to detain Mr. Hadden. *See* Fed. R. App. P. 9(a)(1). We strongly believe that clear and convincing evidence exists that Mr. Hadden is neither a risk of flight nor a danger to any person or the community within the meaning of the Bail Reform Act. In order to appeal this Court's February 1, 2023 order immediately remanding Mr. Hadden, we need to provide the Second Circuit with this Court's statement of reasons underlying that order, pursuant to Rule 9(a)(1).<sup>1</sup> We tried to ask the Court, at the time of the remand order, to enter a stay of Mr. Hadden's remand pending the Court providing reasons for its order, but the Court denied us the opportunity to do so. *See* Feb. 1, 2023 Bail Hearing Tr. at 63-64. The Court indicated, however, that it would issue its statement of reasons on the morning of February 2, 2023. *Id.* at 63. If the Court is unable to issue its statement of reasons by the end of business today, we respectfully ask the Court to release Mr. Hadden until the statement is issued. A court's failure to issue its findings "is unfair to the bail applicant because it hampers his efforts to obtain bail in the court of appeals and because it injects unnecessary delay in the processing of the bail motion." *United States v. Swanquist*, 125 F.3d 573, 575-76 (7th Cir. 1997).

Thank you for your consideration of these requests.

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<sup>1</sup> Although a notice of appeal has already been filed, this Court retains jurisdiction to issue its findings. *See, e.g., United States v. Nichols*, 56 F.3d 403, 411 (2d Cir. 1995) (holding that the filing of a notice of appeal did not divest the district court of jurisdiction to issue supplemental findings "in aid of the appeal").

Respectfully submitted,

/s/

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Michael D. Weil

Kathryn Wozencroft

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*Counsel for Robert Hadden*

cc: Counsel of Record (via ECF)